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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,536	10/14/2005	Wolfgang Rohde	LU 6035 (US)	9276

24114

7590

08/13/2009

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 08/13/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Continuation of 10:

The appeal brief in section VI "GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL" (b) presents the following grounds of rejection:

"The Examiner's obviousness rejection of claims 1-9, 12-19 and 23-26 under 35 U.C.S. § 103 (a) over Sadr in view of Rohde et al. (U.S. Patent 6,893,603).".

However, this is not the grounds of rejection set forth in the Final Rejection mailed 12/12/2008. In the Final Rejection the following grounds of rejection was set forth:

"Claims 1-9, 12-19, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadr (U.S. Patent Application Publication 2002/0105115) in view of Schaftingen et al. (U.S. Patent Application Publication 2001/0015513) or the admitted prior art (Specification pages 3-4 and in particular DE 10042121 wherein U.S. Patent 6,893,603 is also applied as a translation).".

Thus, claims 1-9, 12-19, and 23-26 were rejected over Sadr in view of the admitted prior art and in particular DE 10042121, it being noted DE 10042121 is described on page 3, line 21 of applicants specification and page 4, lines 24-26 specifically refers to DE 10042121 as a process known in the prior art. DE 10042121 has a publication date of 3/14/2002 and is available as prior art under 35 U.S.C. 102(a) as the effective filing date of the instant invention is 10/8/2002. A statement of common ownership does not overcome DE 10042121. U.S. Patent 6,893,603 claims foreign priority to DE 10042121 and is considered the English equivalent. U.S. Patent 6,893,603 was only cited as an English translation of DE 10042121. U.S. Patent 6,893,603 was not applied as a secondary reference, and the rejection is unaffected by a statement of common ownership regarding the instant invention and U.S. Patent 6,896,603 as the patent is only used as a translation of DE 10042121. There is no evidence of record to overcome DE 10042121

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applied under 35 U.S.C. 102(a), and any amended appeal brief submitted in response to this notice of non-compliance should list the complete rejection heading and address the admitted prior art and specifically DE 10042121.

/John L. Goff/

Primary Examiner, Art Unit 1791